

11/18/09

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE APPLICATION OF HICKS  
BROADCASTING OF INDIANA, LLC., ET AL.  
(DREAMCATCHER COMMUNICATIONS,  
INC.)

Related to

UNITED STATES OF AMERICA,  
Plaintiff,

v.

AMERICAN SOCIETY OF COMPOSERS,  
AUTHORS AND PUBLISHERS,  
Defendant.

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #: \_\_\_\_\_  
DATE FILED: 11/18/09

09 CV 7759 (DLC)

41 CV 1395 (DLC)

**CONSENT JUDGMENT**

WHEREAS, the parties to the above-captioned proceeding having consented to have this Court hear and determine the application of applicants Hicks Broadcasting of Indiana, LLC, et al., for reasonable license fees for licenses from the American Society of Composers, Authors and Publishers ("ASCAP") for periods commencing January 1, 2001; and this Court having issued its Final Order in the above-captioned proceeding on October 15, 2004, approving the ASCAP 2004 Radio Station License Agreement ("ASCAP License Agreement"), covering the period January 1, 2001 through December 31, 2009 ("the License Period"); and

WHEREAS, pursuant to Paragraph 7 of the Final Order this Court retained continuing jurisdiction for the purpose of enforcing the Final Order, as well as "the terms, conditions and obligations of the ASCAP License Agreement"; and

WHEREAS, on September 23, 2009, ASCAP filed a motion to enforce the Final Order against Dreamcatcher Communications, Inc. ("Dreamcatcher"); and

WHEREAS, Dreamcatcher is the F.C.C. licensee, owner and operator of radio stations WRAC-FM and WFLE-AM/FM ("the Stations"). Because WFLE-AM and WFLE-FM are simulcast stations, they pay license fees as if they were a single station; and

WHEREAS, the Stations are "Bound Station[s]" as that term is used in the Final Order entered by this Court on October 15, 2004 and are bound to the terms and conditions of the ASCAP License Agreement; and

WHEREAS, Dreamcatcher executed ASCAP License Agreements for the Stations; and

WHEREAS, as of this date, Dreamcatcher owes ASCAP \$40,000.00 for the Stations, representing unpaid license fees and late payment charges for periods through October 31, 2009, and

WHEREAS, ASCAP and Dreamcatcher have agreed to the entry of this Consent Judgment;

**IT IS HEREBY ORDERED, ADJUDGED AND DECREED:**

I. Pursuant to the terms and conditions of the ASCAP License Agreement for the Stations, Dreamcatcher owes ASCAP a total of \$40,000.00 ("Judgment Amount") for the Stations, representing unpaid license fees and late payment charges for periods through October 31, 2009, and judgment is hereby entered against Dreamcatcher Communications, Inc. in favor of ASCAP in such amount;

2. Dreamcatcher shall pay to ASCAP the Judgment Amount as follows:
  - a. A monthly installment of Three Thousand Dollars (\$3,000.00) ("Monthly Installment") on or before the 1<sup>st</sup> day of each month, beginning with November 1, 2009 through June 1, 2010, from which the Stations' current monthly license fees owed to ASCAP, as determined pursuant to the Stations' ASCAP License Agreements in effect at that time, whether a final, interim or extension license, will first be paid; and the remainder of the Monthly Installment will be applied to the Judgment Amount.
  - b. The balance of the Judgment Amount plus accrued interest on or before July 1, 2010, provided, however, that if, on that date, Dreamcatcher is in compliance with the terms and conditions of this Consent Judgment, ASCAP and Dreamcatcher will negotiate in good faith the terms for payment in reasonable installments of the remainder of the Judgment Amount and any other remaining sums owed to ASCAP, but in amounts not less than the Monthly Installment.
3. If Dreamcatcher violates the terms and conditions of this Consent Judgment, ASCAP will give Dreamcatcher written notice of such default. If Dreamcatcher fails to cure such default within ten business days from the date of ASCAP's notice, ASCAP shall be entitled to have execution issue immediately on this Judgment and without further notice to collect any balance then due pursuant to this Judgment.
4. Failure of a check made payable to ASCAP by Dreamcatcher to clear for payment constitutes default pursuant to the terms and conditions of this Consent Judgment. Dreamcatcher will be responsible for all costs incurred by ASCAP in bank fees and

penalties that result from the failure of a check made payable to ASCAP by Dreamcatcher to clear for payment.

5. Interest on the Judgment Amount shall accrue at the rate of four percent (4%) per annum (compounded) from the date of entry and shall be calculated in accordance with 17 U.S.C. § 1961; provided, however, that if (i) the Judgment Amount is paid in full by July 1, 2010, and (ii) all monthly payments are made pursuant to Paragraph 2(a), interest on the Judgment Amount shall be waived.

Dated: November 18, 2009  
New York, New York

James L. C.  
United States District Judge

We consent to the entry of the foregoing consent judgment:

Dated: 11-4-2009

Dated: 10/27/09

AMERICAN SOCIETY OF COMPOSERS,  
AUTHORS AND PUBLISHERS

PAUL, WEISS, RIFKIND, WHARTON &  
GARRISON LLP

Jay Cohen

Lynn B. Bayard

1285 Avenue of the Americas  
New York, New York 10019-6064

Phone: (212) 373-3054

Email: [jaycohen@paulweiss.com](mailto:jaycohen@paulweiss.com);  
[lbayard@paulweiss.com](mailto:lbayard@paulweiss.com)

By: Christine A. Pepe  
ASCAP

Richard H. Reimer

Christine A. Pepe

One Lincoln Plaza

New York, New York 10023

Phone: (212) 621-6200

Fax: (212) 787-1381

Email: [RReimer@ascap.com](mailto:RReimer@ascap.com);  
[CPepe@ascap.com](mailto:CPepe@ascap.com)

DREAMCATCHER  
COMMUNICATIONS, INC.

By: Donald Bowles  
Donald Bowles, President  
114 S. Manchester Avenue  
West Union, Ohio 45693  
(937)-477-7718

*Attorneys for the American Society of  
Composers, Authors and Publishers*

**AFFIDAVIT OF SERVICE BY FEDERAL EXPRESS**

STATE OF NEW YORK      )  
                                    )      ss.:  
COUNTY OF NEW YORK      )

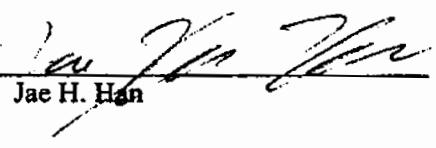
Jae H. Han, being duly sworn, deposes and says:

1. I am not a party to this action, am over 18 years of age and am employed by Paul, Weiss, Rifkind, Wharton & Garrison LLP, 1285 Avenue of the Americas, New York, New York 10019.

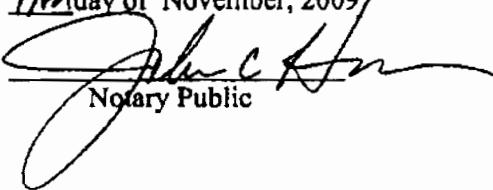
2. On November 17, 2009, I served a true copy of the attached CONSENT JUDGMENT on the following:

Donald Bowles, President  
DREAMCATCHER COMMUNICATIONS, INC.  
114 S. Manchester St.  
West Union, OH 45693-1221

3. I made such service by placing a true copy of the aforementioned document in properly addressed, prepaid wrapper and delivering it to a Federal Express office for Priority Overnight Delivery.

  
Jae H. Han

Sworn to before me this  
17th day of November, 2009

  
John C. Hearn  
Notary Public

JOHN C. HEARN  
Notary Public, State of New York  
No. 02450003281  
Qualified in New York County  
Commission Expires Feb. 13, 2011